

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

REPUBLICAN PARTY OF WISCONSIN and
BRIAN SCHIMMING,

Plaintiffs,

v.

TONY EVERS, In his official capacity as Governor of
the State of Wisconsin,

MEAGAN WOLFE, In her official capacity as
Administrator of the Wisconsin Elections Commission,

Case No.: 3:24-cv-867

and

JOSH KAUL, In his official capacity as Attorney
General for the State of Wisconsin,

Defendants.

STATEMENT OF PROPOSED FACTS FOR INJUNCTIVE RELIEF

The above-named Plaintiffs, the Republican Party of Wisconsin (“RPW”) and Brian Schimming, by their attorneys, Cramer Multhauf LLP, submit the following facts in conjunction with its motion for a preliminary injunction filed on December 6, 2024:

1. On November 29, 2024, the Wisconsin Elections Commission certified that Republican presidential nominee Donald Trump and Republican Vice-Presidential nominee J.D. Vance won the State of Wisconsin with 1,697,626 votes, as compared to 1,668,229 votes for Democratic presidential nominee Kamala Harris and Democratic Vice-Presidential nominee Tim Walz.

2. The Wisconsin Elections Commission has certified the 10 presidential electors for Wisconsin as the 10 electors nominated by RPW, which are the following individuals: Katie Verzal, Julie Helmer, Hannah Testin, Doug Haag, Jim Schildback, Eric Toney, Angie Sapik, Charlotte Rasmussen, Brian Schimming, and Tommy Thompson.

3. A copy of that certification from the Wisconsin Elections Commission is available here: <https://elections.wi.gov/sites/default/files/documents/Canvass%20-%20Presidential.pdf>.

4. The Electoral Count Act of 1887 set the presidential elector meeting date for the first Monday after the second Wednesday in December. See Act of Feb. 3, 1887, ch. 90, 24 Stat. 373.

5. In 2022, Congress passed the Electoral Count Reform Act (“ECRA”) which amended the federally imposed date for the meeting of the presidential electors. Consolidated Appropriations Act 2023, H.R. 2617, 117th Cong., Division P, Sec. 106 (2022).

6. The new statute states that “The electors of President and Vice President of each State shall meet and give their votes on the first Tuesday after the second Wednesday in December next following their appointment at such place in each State in accordance with the laws of the State enacted prior to election day.” 3 U.S.C. § 7.

7. For the 2024 meeting of the presidential electors, this date would be Tuesday, December 17, 2024.

8. This new federal statute conflicts with Wis. Stat. § 7.75(1) which requires the electors to meet on the first Monday after the second Wednesday in December, which this year would be Monday, December 16, 2024.

9. Both chambers of the Wisconsin Legislatures introduced companion bills to bring state law into harmonization with federal law after Congress passed the ECRA. *See* Wis. 2023 S.B. 852; Wis. 2023 A.B. 892.

10. Neither of these bills passed out of the assigned committees, which has led to the current conflict between the federal and state statutes. *See* History, Senate Bill 852, WISCONSIN STATE LEGISLATURE (Dec. 4, 2024), <https://docs.legis.wisconsin.gov/2023/proposals/sb852>.

11. The Plaintiffs are in the process of planning and organizing the meeting of RPW's presidential electors and believe that 3 U.S.C. § 7 preempts the state law for when the presidential electors should meet but remains concerned that if they act in contravention of state law, they could face criminal or civil penalties. (Declaration of Brian Schimming, Dkt. 4.)

Dated this 9th day of December, 2024.

CRAMER MULTHAUF LLP
Attorneys for Plaintiffs,

By: Electronically signed by Matthew M. Fernholz
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